

1 **UNITED STATES DISTRICT COURT**
2 **DISTRICT OF NEVADA**

3
4 JOHN TURNER,

5 Petitioner,

6 vs.

7 ATTORNEY GENERAL, *et al.*,

8 Respondents.
9

Case No. 2:17-cv-00696-APG-CWH

ORDER

10 This action is a *pro se* petition for a writ of habeas corpus filed pursuant to 28 U.S.C. § 2254
11 by a Nevada state prisoner. Neither a filing fee nor an application to proceed *in forma pauperis* was
12 submitted with the petition. When filing a habeas action, petitioner must either submit the \$5.00
13 filing fee for habeas petition or an application to proceed *in forma pauperis*. Due to the lack of an
14 *in forma pauperis* application or filing fee, the present action will be dismissed without prejudice to
15 the filing of a new petition in a new action with a pauper application with all required attachments.
16 It does not appear from the papers presented that a dismissal without prejudice would result in a
17 promptly-filed new petition being untimely. In this regard, petitioner at all times remains
18 responsible for calculating the running of the limitations period as applied to his case and properly
19 commencing a timely-filed habeas corpus action.

20 **IT THEREFORE IS ORDERED** that this action is **DISMISSED** without prejudice to the
21 filing of a **new petition in a new action**.

22 **IT IS FURTHER ORDERED** that the Clerk of the Court shall send petitioner the
23 following: (1) two copies of an *in forma pauperis* application form for a prisoner and one copy of
24 the instructions for the same, (2) two copies of a blank 28 U.S.C. § 2254 habeas petition form and
25 one copy of instructions for the same; and (3) the petition received on March 8, 2017.

26 **IT IS FURTHER ORDERED** that petitioner may file a new petition in a new action, but
27 may not file further documents in this action.
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1 **IT IS FURTHER ORDERED** that a certificate of appealability is **DENIED**. Reasonable
2 jurists would not find the dismissal of the improperly-commenced action without prejudice to be
3 debatable or wrong.

4 **IT IS FURTHER ORDERED** that the Clerk of the Court shall enter judgment accordingly.

5 Dated: March 13, 2017.

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9 ANDREW P. GORDON
10 UNITED STATES DISTRICT JUDGE
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